

Remarks

This amendment is submitted under 37 CFR §1.116 in response to the Final Office Action dated 09 February 2005 in the above-identified application, and as follow-up to the 14 April 2005 telephone interview between Applicants' attorney, Jack Hamilton, and Examiner Raman and Supervisory Examiner Faile. Applicants thank the Examiners for granting that interview and respectfully submit that the amendments and remarks herein place the application in condition for allowance or, in the alternative, in better form for appeal.

Claim Rejections under 35 U.S.C. §103

Claims 1-15 were rejected under 35 U.S.C. §103 as being unpatentable over Chappell (US Pat. 6,425,132) in view of Kekic et al. (US Pat. 6,272,537) and in further view of Anderson et al. (US Pat. 5,850,388.)

Claims 6-10 have been cancelled, and two new claims 16-17, which depend from claim 11, have been added. Per the telephone interview, Applicants have amended independent claims 1 and 11 to more clearly distinguish the presently claimed invention from the modified system of Chappell in view of Kekic and Anderson. New claims 16 and 17 correspond to the "smart scanning" logic of Applicants' system and the associated process said logic effectuates, as discussed in the interview, wherein the claimed system has the ability to expand testing of and/or more frequently test nodes identified as inadequately performing nodes through prior monitoring. Support for these amendments can be found beginning at the bottom of page 48, and more particularly from line 29 of page 49 through line 4 of page 50.

The amendments to claims 1 and 11, which find support at least in lines 9-19 of page 4 and lines 23-25 of page 19, more clearly indicate that *automatic, periodic testing* that Applicants' system performs, which is based on previously defined testing routines created based upon user input data, is quite different from the technician-initiated spectrum analyzer sweep-testing disclosed by Chappell, or the general "polling" of Kekic and Anderson.

Chappell's testing of a CATV system is not automated in a sense that the testing is the direct result of a field technician request for ingress testing. The presently claimed invention assists in automatically generating percent advisory and critical alarm indicators during the execution of channel test plans automatically generated and run based on user inputs. The specification explains that the controller is configured to enable *creation of* and display of the channel plan and test plan based upon user inputs.¹ The specification states that "channel plan 56 encompasses all the expected values for all the services operating on a given node and all the information necessary to configure analyzer tests automatically."² The advantageousness of the system is described with respect to the challenge presented in configuring correctly the ingress measurements of the spectrum analyzer 12, "...control process software 26 takes care of the details regarding configuring each measurement. By configuring the various measurement parameters for the analyzer 12 from the channel plan 56, the control process software 26 ensures that the measurements are taken accurately and consistently."³

Neither the Kekic nor Anderson reference teaches use of *warning interface logic* for *automated channel testing* of a network that would entail *automatically* taking measurements of *nodes each having a number of channels* through the use of a spectrum analyzer. Rather, Kekic represents a rules based expert system for network management running in a client server environment. Further, Kekic references the usage as being Graphical User Interface centric, requiring human approvals to the actions taken, as opposed to the autonomously initiated actions taken by the present system that may be dynamically initiated by predetermined test and channel plans without human intervention. Again, this is part of the novelty of the invention. Anderson describes a pre-programming capability that merely allows a user to specify a monitoring period during which network statistics can be collected, and does not control a switch in and *automatic, period* manner as in Applicants' system.

In light of the foregoing, Applicants respectfully submit that the combined disclosures of Chappell, Kekic and Anderson fails to teach or suggest the invention as recited in

¹Specification page 4, ll. 9-19

² Specification, page 19, ll. 23-25

³ Specification, page 20, ll. 3-8

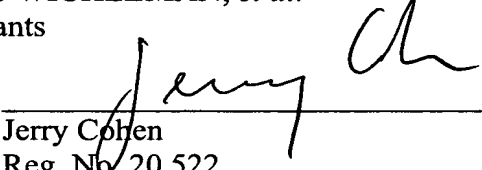
amended, independent claims 1 and 11, and therefore those claims are patentable over the cited art. Claims 2-5 and 16, which depend from claim 1, and claims 11-15 and 17, which depend from claim 11, include all of the limitations of now patentable claims 1 and 11, and thus are similarly in a condition for allowance, and Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections.

Favorable consideration and allowance are earnestly solicited. Should there be any questions after reviewing this paper, the examiner is invited to contact the undersigned at 617-854-4000. Applicants hereby authorize the associated fees for the Request for Continued Examination and the petition for two month extension, and any other fees deemed necessary for consideration of this amendment be charged to Deposit Account No. 50-1078.

Dated: July 11, 2005

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